

REMARKS

By this reply, the specification has been amended; claims 1-3, 11, and 28-30 have been amended; claims 31-39 have been added; and claims 8-10, 14, 18, 20-23, 25, and 26 have been cancelled. No new matter has been introduced by the amendments. In view of the amendments, claims 1-7, 11-13, 15-17, and 28-39 are pending in this application.

As an initial matter, Applicants thank the Examiner for indicating allowable subject matter in claims 10, 14, and 30.

In the Office Action, the Examiner rejected claims 2-8 under 35 U.S.C. § 112, second paragraph; rejected claims 1-7 and 18 under the judicially created doctrine of obviousness-type double patenting over claims 1, 5, 6, 10, 11, and 13 of U.S. Patent No. 6,254,534 to Butler et al. ("Butler '534") in view of U.S. Patent No. 6,033,426 to Kaji ("Kaji '426"); rejected claims 11-13 and 15-17 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 11 and 12 of U.S. Patent No. 6,623,426 to Bonadio et al. ("Bonadio '426"); rejected claims 1, 2, 8, 9, 18, 20-23, 25, 26, 28, and 29 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,906,577 to Beane et al. ("Beane '577"); rejected claims 1, 2, 18, and 25 under 35 U.S.C. § 102(e) as being anticipated by Kaji '426; rejected claims 11, 13, 15, and 16 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,045,070 to Grodecki et al. ("Grodecki '070"); objected to the title of the invention; and objected to the drawings.

Addressing the objection to the specification, Applicants have amended the title of the specification so that it is clearly indicative of the invention to which the claims are

directed. In light of this amendment, Applicants request withdrawal of the objection to the specification.

Although Applicants do not necessarily agree with the prior art rejections set forth in the Office Action, to obviate these rejections and to expedite prosecution and allowance of this application, independent claim 1 has been amended to incorporate the general subject matter of allowable claim 10, and intervening claims 8 and 9.

Additionally, the phrase "means to seal a retracted wound opening; the sealing means being integral with the wound retractor," from the prior version of independent claim 1, has been replaced with a recitation of the structure associated with the "means," in order to clarify the structure of the claimed surgical device. Claims 8-10 have been canceled, and claims 28 and 29 have been amended to correct their dependency from claim 9 to claim 1, to reflect the incorporation of the subject matter of claims 8-10 into independent claim 1. For this reason, claim 1 is now allowable over the prior art of record. Claims 2-7 and 28-30 depend from independent claim 1 and are allowable for at least the same reasons that independent claim 1 is allowable. Reconsideration and withdrawal of the rejection and the allowance of claim 1 and its dependent claims are requested.

Also, independent claim 11 has been amended to incorporate the subject matter of allowable claim 14, which has been canceled to reflect the incorporation of its allowable subject matter into independent claim 11. For this reason, independent claim 11 is now allowable over the prior art of record. Claims 12, 13, and 15-17 depend from independent claim 11 and are allowable for at least the same reasons that independent

claim 11 is allowable. Reconsideration and withdrawal of the rejection and the allowance of claim 11 and its dependent claims are requested.

Further, allowable claim 30 has been rewritten in independent form as new independent claim 31. Accordingly, independent claim 31 generally incorporates the subject matter of allowable claim 30 and claims 1, 8, and 9, from which allowable claim 30 depended. In addition, the phrase “means to seal a retracted wound opening; the sealing means being integral with the wound retractor,” from the prior version of claim 1, has been replaced with a recitation of the structure associated with the “means,” in order to clarify the structure of the claimed surgical device. For this reason, independent claim 31 is allowable over the prior art of record. New claims 32-39 depend from independent claim 31 and are allowable for at least the same reasons that independent claim 31 is allowable. Reconsideration and withdrawal of the rejection and the allowance of independent claim 31 and its dependent claims are requested.

The cancellation of claim 18 renders its rejections under the judicially created doctrine of obviousness-type double patenting over claims 1, 5, 6, 10, 11, and 13 of Butler '534 in view of Kaji '426, 35 U.S.C. 102(e) as being anticipated Beane '577, and 35 U.S.C. 102(e) as being anticipated by Kaji '426 moot. The cancellation of claims 20-23 renders their rejection under 35 U.S.C. 102(e) as being anticipated by Beane '577 moot. The cancellation of claim 25 renders its rejection under 35 U.S.C. 102(e) as being anticipated by Beane '577, and 35 U.S.C. 102(e) as being anticipated by Kaji '426 moot. The cancellation of claim 26 renders its rejection under 35 U.S.C. 102(e) as being anticipated by Beane '577 moot. In view of this, Applicants submit that no

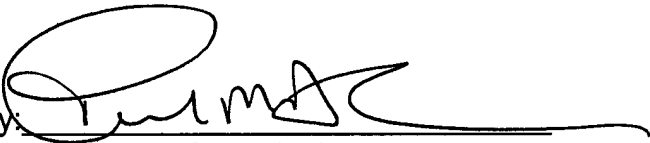
outstanding rejections or objections remain upon entry of this reply, and that this application is in condition for allowance.

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account No. 06-0916.

Respectfully submitted,

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Attachments: Four Replacement Drawing Sheets